

Deadline Extended For the Third Annual MLF 50

*The Top 50 Law Firms
In the Areas of Marketing
And Communications
Will Be Announced in
Our November Issue*

By Elizabeth Anne
"Betiayn" Tursi

The deadline for submissions to the Third Annual MLF 50 has been extended to Monday, Oct. 1, 2007. The criteria for selection remain the same as previous years with two notable changes. Submission essays can be up to 1000 words. This year, particular emphasis will be placed on those firms that have embraced the use of technology (see below) to achieve their marketing, communications and business development goals.

CRITERIA FOR SELECTION

Law firms of 100 attorneys or more are eligible to enter. Each
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ERRATUM

An inadvertent error appeared on page 1 of the August Issue of *Marketing the Law Firm*, in paragraph 2 of Career Journal, by Eva Wisnik and Jennifer Johnson. The last sentence should read: For example, in a firm with a Chief structure, a Manager would be a third-level position, and a Director title would be the second-in-line spot.

HELP! Communicating During a Crisis

By John J. Buchanan

With corporate scandals, terrorism and economic chaos appearing regularly in the headlines of major newspapers and on broadcast news, now more than ever it seems that American business is in need of good crisis communications. No company is immune to crisis — so no company should be without some kind of plan to communicate in the midst of that crisis. Organizations that have good plans in place will weather crises far better than those that don't — or those that believe that *not* communicating will insulate them in some way from the effects of the crisis.

And just like the rest of corporate America, law firms should not be without a crisis communication plan. Several incidents in the legal industry in the last few years are good examples of how "not" to handle a crisis on the communication front. From the almost spontaneous combustion of a major firm to an embarrassing internal dispute that was aired across every major legal publication (and beyond) to a failed merger announcement, law firms aren't immune to crisis — nor the need to have a clear, thoughtful communication plan to manage the crisis.

The advent of blogs has increased the stakes as well. It doesn't matter that the views expressed in blogs are opinionated and the facts often unsubstantiated. Blogs are a voice to be reckoned with, and crises provide ample fodder for bloggers to spew out and their readers to chew on.

If the crisis you face is of the caliber of an Enron or Tyco meltdown, it's probably best to hire professional crisis communicators: There are many top-notch communicators who have helped the world's leading companies manage their crisis communications. So, if you're facing a truly calamitous crisis, one that may result in the dissolution of your firm, for example, then it would be prudent to call in the professionals. Just as a smart CEO hires a good lawyer to get his company out of trouble, so should you consider hiring a skilled communicator to manage your crisis communications.

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Client Speak

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Alternatively, it's an either-or situation. The client might say, "Tom, these cases represent so much aggregate exposure that, if you scare off plaintiffs' lawyers by being aggressive, we don't mind a little budget creep on the legal fee end."

Or, the client might say, "We're under enormous pressure to keep fees down. We need to settle these cases and settle them fast."

In both cases, you have your answer — and perhaps a cue for further action. If, for example, you're apprised of that "enormous pressure" from the C-Suite or the board to hold or cut costs, offer a solution. Volunteer to meet with the CEO (off the clock) to provide long-term assessments of what a less pound-foolish approach can achieve as well as the dangers of being overly penny-wise.

A BROADER PARADIGM

A more general, and therefore multifaceted, strategic response requires law firms to approach all prospective business in such a way as to unearth

the differing client priorities — and to show the extent to which one priority takes precedence over, or else compliments, another priority.

In this approach, you seek vital information about:

- how clients want the work to be managed;
- what pressures they are under;
- what their business is all about;
- how rate structures fit in with corporate assignments;
- how best to communicate and keep the client informed;
- how to avoid surprises; and
- when to start talking about future needs.

One take-away from the surveys (however contradictory they may be in other regards) is that law firms that do develop business by culling information along these seven fault lines often stop doing so after they're hired.

That can be a fatal mistake. Treat every client like a prospect and never stop the research. As we've suggested, the main reason client priorities change so confusingly is that their internal or external circumstances change. As such, there's no other

way to hit this moving target except through ceaseless vigilance.

Use the information you gather and keep using it. If you are one of the relatively few law firms that actually asks clients for suggestions or conducts client surveys, implement their ideas and let them know you have done so.

If consultants, marketers, and media surveys describe fundamentally different client priorities, take the bull by its proverbial horns and host informal gatherings of in-house buyers to discuss those diverse priorities. Even a general discussion of their concerns will be useful for you to hear, while the informality will be most welcome to them if only as an opportunity to commiserate.

No matter how conflicted inside counsel may be in their expectations of outside counsel, they all want you to be client-centric. Simply by taking tangible steps to clarify their priorities on an ongoing basis, you send a powerful message about yourself. Caring is the crucial first step.



HELP!

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But, if the crisis you're facing appears to be one that you can handle or that will resolve in a timely manner and not be the downfall of your firm, then here are a few tips that might be helpful.

TALK TO THE PRESS

Talk to the press right away. If you find your firm in the middle of a crisis, don't clam up and refuse to communicate with the media. Just say, "We're taking a look at the situation and we'll get back to you as soon as possible" — and do just that. One thing that can be very helpful in a time of crisis is to have a good relationship with a reporter — especially one who regularly covers your firm and knows about you. Taking a reporter into your confidence and helping him or her understand the nuances of the crisis can be very helpful in communicating your side

of the story. Remember, there are at least two sides to every story or crisis — so you should try and get your side out ASAP.

COMMUNICATE

Communicate internally *and* externally. Don't forget that one of your most important audiences is your workforce. When you're faced with a crisis, make sure you talk to your attorneys *and* professional staff — and keep them informed along the way. It's very likely that someone outside the "management circle" will get a call from the press, so the more they know about the crisis and how it's being managed, the more likely they will be to refer the press call to the right person. If your attorneys and your professional staff don't know what's going on and don't know to push all media calls to either your PR people or your firm management, you might find yourself trying to manage the crisis on two fronts: internally and externally.

BE TRUTHFUL AND RESPONSIVE

Reporters can smell fear and lying and they will get you every time. So, be honest, be truthful and be straightforward. One of the textbook examples of how being honest and straightforward helped a company survive a devastating crisis was how James Burke, Chairman of Johnson & Johnson (J&J), handled the Tylenol® poisonings in 1982. Within hours of the first death, Burke was on television, speaking for the company, assuring the American public that J&J was doing everything possible to ensure that all Tylenol products were taken off the shelves. Now granted, most law firms would never face a

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crisis as devastating as the Tylenol scare, but truthfulness and responsiveness go a very long way in helping you come out of crisis.

JUST SAY 'NO' TO 'NO COMMENT'

Avoid using the hackneyed phrase, "No comment" when questioned about a crisis: That's journalistic code for "I know something but I'm not going to tell you" — and nothing gets a reporter on the scent of a story faster than "no comment." If you really can't talk about the crisis, then tell a reporter that: "I can't discuss that right now" or "I can't speak to that at this moment, but I will get back to you as soon as I have more details." Being straightforward is the preferable way to approach the press and may actually help diffuse part of the crisis. Being evasive only causes the story to escalate in the media, and you'll find yourself spending as much time battling the bad press as you do dealing with the actual crisis itself.

ADMIT FAULT

If you find yourself in a bad situation and it's because of something your firm did, admit it. Time and time again, when people get caught in crisis and then fail to admit either wrongdoing or mistakes, they almost always take a hit. Government cover-ups and corporate hanky-panky are replete with examples of individuals trying to hide the truth, who are then found out — and then suffer worse consequences than had they come clean right away. It's hard to admit you're wrong or made mistakes, but owning up early on can help resolve the crisis sooner and allow you to focus your energies on addressing the actual crisis itself.

HAVE A PLAN IN PLACE

As with all kinds of crisis planning (and more companies than ever — especially in the post-9/11 era — have sophisticated, comprehensive "disaster recovery" plans in place) a critical piece of these plans is the

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communication element. And even if your firm doesn't have a disaster recovery/crisis plan in place, you should have, at minimum, a "crisis communication" plan. Crisis communication plans can be as simple as a "phone tree" of "who calls whom" in an emergency to a three-ring binder full of "stand-by statements," tips for working with the media, and detailed action plans for possible crisis scenarios.

SELECT AND TRAIN YOUR SPOKESPERSON

Generally, it's best if your firm's spokesperson is the Chairman or

... nothing gets a reporter

on the scent of a story

faster than "no comment."

Managing Partner. Reporters like hearing from the top brass. If your spokesperson is a litigator, even better. Litigators can treat crisis communications like a cross-examination ... only *this* time, they are the witnesses. It's also a good idea to have more than one firm spokesperson media-trained and ready to go, in case your Chairman or Managing Partner cannot talk with the media for some reason. Media training (*i.e.*, training spokespersons to give interviews, answer tough questions, communicate effectively on video) is a critical weapon for battling crises. Hiring a media trainer to work with your firm's top management for a day or two (which can run anywhere from \$5000 to \$20,000 depending on the experience of the trainer and the depth and length of the training) can be one of the best PR-related investments you can make. Not only do you get your spokespeople prepared for communicating in crisis, you actually get them better prepared for everyday media interviews and questions.

It's best to get your people trained and ready *before* a crisis. Once you

find yourself in the midst of a crisis, it's often too late to get trained or train anyone. About the only thing you can do at that point is to manage the questions as they come — and if you have a media-savvy spokesperson, you'll probably be fine.

CLIENTS IN CRISIS

Because an attorney's primary job for clients in crisis is to help them get out of trouble, attorneys often believe that not saying anything to anyone is much less riskier than talking to the press — and that is one option. However, as noted, clamming up and relying on "No comment" isn't always going to be helpful in resolving a crisis situation — and may actually exacerbate the situation. Clearly, there are situations where it is impossible or not legally prudent for a client to discuss details of a crisis in public, but in some situations, it is worth the client considering.

And while you need to ensure that you help your client safely navigate the complexities of the legal storm brewing in the wake of the crisis, there are a few things that you can do to help your client out on the communications side.

Encourage the CEO to Speak Out

While press conferences are generally passé in today's "immediate gratification world," they can be very effective vehicles for communicating with the press. Just as J&J's Chairman took the lead and got out in front, so might your CEO, even if it is only to explain that there are no details about the crisis available at that particular moment and that he'll release a statement as soon as possible. Using the press-conference format for that kind of "news" (and today many press conferences are conducted via conference call versus an in-person, "traditional" press conference) can be a

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very effective way for the client to communicate with a number of press all at once — and it can often be exactly the right vehicle for explaining the details of a complex crisis. Also, putting a human face on the crisis (especially one well-trained in media relations — see above) can foster an open discussion of the crisis, and one that is likely to get a more balanced play in the press.

Also, it's quite possible that if the client does nothing, the long-term health of the client's brand may be affected. Research showed that J&J's handling of the crisis proved to be a positive influence on the brand and the corporate image over time.

Call in the Experts

Nearly all large public relations firms have crisis communications practices, and most of them are staffed by seasoned, competent communications professionals. If your client does not already have a PR firm, propose hiring such a firm to your client. While at the moment the cost might seem high, in the long run, a good PR firm with a good crisis communication team can save clients many times over their fees.

Also, a number of the large, national PR firms have litigation com-

munication practices that are very experienced in dealing with the multi-faceted fallout of high profile litigation and the attendant crisis communication needs. If you don't already know about these practices and the PR firms that have them, it might be a good idea to familiarize yourself with these firms and review their marketing materials. Some of the more notable "big name" PR/communication firms with litigation communication practices of some kind include Fleishman-Hillard (www.fleishman.com/capabilities/practice_groups/litigation.html), Edelman (www.edelman.com/expertise/practices/crisis/), and APCO Worldwide (www.apcoworldwide.com/content/services/index.cfm). In a number of boutique firms that offer specialty crisis communication support there are also good choices including Logos Consulting Group (www.logosconsulting.net/what-we-do/crisis-communication/crisis-communication-management.html), Levick Strategic Communications (www.levick.com/expertise/out/litigation.php), Van Prooyen Greenfield LLP (www.vpgllp.com/services_crisis.php) and ML Strategies (an affiliate of Mintz Levin Cohn Ferris Glovsky and Popeo P.C. (www.mlstrategies.com/about/public_relations.cfm)).

Ask about their crisis communications plans. If you're hired by a client to help it handle a significant crisis (one of those bet-the-company cases), ask early on if it has a crisis communication plan in place or how it plans to handle its communications throughout the engagement. Clients approaching a crisis often have tunnel vision and only concern themselves with resolving the crisis. Not having a good plan in place — or not thinking about how to communicate during the crisis — can make the crisis even worse. An early "heads-up" can be a lifesaver.

Cooperate with the Professionals

While your knee-jerk reaction may be to tell the client to keep quiet in a time of crisis, it may be to the client's advantage if it airs its side of the story in the press. As a marketing professional, you can be helpful by reviewing the communications, advising on any potential problems you see, and cooperating with the professional communicators. That's not to say that you should let your client say anything and everything that it wants — just realize that professional PR people and those that specialize in communications can add significant value to a crisis situation.



Business Development

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pressure cooker of a topic worthy of a separate article.

Are we overstating things? We don't think so. Recent studies show that dollars and bodies are being shifted from traditional marketing to business development. Sure, maybe it's a fad. (It wouldn't be the first.) But clearly a major shift is underway. Roles that five years ago drew stellar candidates willing to take low-six-figure salaries are now scoffed at by wet-behind-the-ears biz-dev newbies who won't talk for less than two and a quarter. To those who still believe something's gotta give, our answer is: It already has. And it shows no sign of stopping.

So let's handicap this thing. Who will emerge as top dog? Will it be

marketing? Business development? Both? While this is still playing out and will for some time — law firms are still a little light in the decision-making alacrity department — we know it won't be both. Successful dual leadership is extremely rare and, more often, a recipe for disaster.

That said, however, we don't believe that the function that can most readily show that it plumps up the bottom line will play second fiddle much longer. Marketing and communications programs are vulnerable to outsourcing in ways that biz-dev functions are not. Moreover, as business development matures, tracking of ROI will improve, further increasing the credibility and effectiveness of the business development function.

CONCLUSION

It's time for marketers who want to stay relevant to get active in business development. What's kept things on track is that law, like all other so-called noble professions, is a business. And at least at the big-firm level, it is very often an extremely high-stakes business that must be managed strategically and with a drive towards measurable results. Those lawyers and law firms not already fully on board with this reality are likely to be left far, far behind — if they have not been already. In the long run there is room for only one leader in such an environment. So place your bets. The smart money is on business development.

